



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MASSACHUSETTS 02109-3912

### **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**JUN - 5 2013**

Sam's PW, Inc.  
c/o Chris Callaway, Vice-President - Sam's Club Real Estate  
2101 SE Simple Savings Drive  
Bentonville, Arkansas 72716

Re: PCB Cleanup and Disposal Approval under 40 CFR §§ 761.61(a) and (c)  
Sam's Club Store #6681-02  
Warwick, Rhode Island

Dear Mr. Callaway:

This is in response to Sam's PW, Inc. (Sam's) Notification<sup>1</sup> to address PCB-contaminated soils and debris on the property located at 25 Pace Boulevard in Warwick, Rhode Island. Specifically, soils and debris located within and adjacent to a proposed receiving area building are contaminated with PCBs at concentrations which exceed the allowable PCB levels for unrestricted use under the federal PCB regulations at 40 CFR § 761.61(a). The full areal extent of the PCB contamination (henceforth "the Site") is identified on Figure 8A of the revised May 17, 2013 *Notification and Request for Approval Modified Self-Implementing Onsite Cleanup and Disposal of PCB Remediation Waste Plan*.

Sam's has requested an approval to clean up and dispose of the PCB-contaminated soils and debris located on the Site under the PCB self-implementing cleanup and disposal option (SIP) at 40 CFR § 761.61(a), which includes the following activities:

- Remove all PCB-contaminated soils at greater than ( $>$ ) 10 parts per million (ppm);
- Remove PCB-contaminated soils with  $> 1$  ppm but less than or equal to ( $\leq$ ) 10 ppm located within the footprint of the proposed receiving area building, consolidate these soils with the  $> 1$  ppm but  $\leq 10$  ppm PCB-contaminated soils located outside the receiving area building footprint (i.e., consolidation area), and cover with a clean engineered cap;

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<sup>1</sup> Information was submitted on behalf of Sam's by ENVIRON and was provided to satisfy the notification requirement under 40 CFR § 761.61(a)(3) and (c). Information was provided dated October 2012 (Summary of Environmental Investigation Activities); September 11, 2012 (Hazardous Material Release Notification Form); December 19, 2012 (ENVIRON Technical Memorandum. Sampling Plan for Supplemental PCB Characterization); April 3, 2013 (ENVIRON Technical Memorandum Sampling Plan for Supplemental PCB Characterization adjacent to Soil Boring E-1); March 19, 2013 (Notification and Request for Approval Modified Self-Implementing Onsite Cleanup and Disposal of PCB Remediation Waste Plan ((SIP); and May 17, 2013 (revised SIP); and, June 3, 2013 (e-mail clarification on Sam's representative and boulder sampling plan). These submittals will be referred to as the "Notification."

- Conduct verification sampling in accordance with Subpart O to confirm that the  $\leq 1$  ppm and  $\leq 10$  ppm PCB cleanup standards have been met in the receiving area building footprint and the consolidation area, respectively;
- Dispose of soils with PCB concentrations  $> 10$  ppm but less than ( $<$ ) 50 ppm at a non-hazardous waste landfill in accordance with § 761.61(a)(5)(i)(B)(2)(ii) and dispose of greater than or equal to ( $\geq$ ) 50 ppm at a TSCA-permitted disposal facility or a RCRA hazardous waste landfill in accordance with § 761.61(a)(5)(i)(B)(2)(iii);
- Dispose of excavated boulders based on surrounding soil concentrations or alternatively, segregate and sample to determine handling and/or disposal requirements;
- Dispose of debris (e.g., metal tank, wood timbers, etc) as a  $\geq 50$  ppm PCB waste at a TSCA-permitted disposal facility or a RCRA hazardous waste landfill in accordance with § 761.61(a)(5)(i)(B)(2)(iii); and,
- Record a deed notice in the form of an Environmental Land Use Restriction (ELUR) to document that PCB concentrations  $> 1$  ppm remain on the Site.

The property owner, Kalikow Yaphank Development Corporation, has confirmed its agreement to record the ELUR on the property following completion of the PCB cleanup activities (see Notification Appendix M).

With the exception of the characterization sampling requirements and the cap design, Sam's Notification meets the notification requirements at § 761.61(a)(3). Given the data and the proposed soil removal plan, EPA has determined that the data is sufficient to allow segregation of  $\geq 50$  ppm PCB-contaminated soils from  $< 50$  ppm PCB-contaminated soils for disposal. This alternative sampling may be approved under § 761.61(c).

Sam's is proposing a modification to the cap requirements specified under § 761.61(a)(7). The prescriptive cap specifications under § 761.61(a)(7) are either a minimum 6-inch concrete or asphalt cover or a minimum 10-inch compacted soil cover. Sam's is proposing a cover that meets the Rhode Island Department of Environmental Management (RIDEM) cap requirements which specify a minimum 4-inch concrete or asphalt cover laid over a minimum 6-inch clean material base with visible marker layer. EPA has determined that the alternative cap design is functionally equivalent to the compliant cap design specified under § 761.61(a)(7) and that this alternative design will not create an unreasonable risk to public health or the environment. EPA may approve the design under § 761.61(c).

Sam's may proceed with its PCB cleanup and disposal plan under 40 CFR §§ 761.61(a) and (c); its Notification; and this Approval, subject to the conditions of Attachment 1. Please be aware that due to the uncertainty of the quantity of larger boulders (i.e.,  $> 2$  foot diameter) that may be generated from the  $> 10$  ppm PCB-contaminated soil areas during excavation and for which on-site disposal is proposed, this Approval requires that Sam's submit a sampling plan for characterization of said boulders. This sampling requirement also shall apply to all visually impacted boulders unless disposed as a  $\geq 50$  ppm PCB waste (see Attachment 1, Condition 13.)



This Approval only addresses cleanup and disposal of the *PCB remediation waste* identified in the Notification. In the event that Sam's or the property owner identifies other PCB-contaminated wastes subject to cleanup and disposal under the PCB regulations during work on the property, Sam's or the property owner will be required to notify EPA and to clean up the PCB-contaminated wastes in accordance with 40 CFR Part 761 (see Approval Condition 1.) This Approval also does not address the three stockpiles currently located on the property. According to sampling data, those stockpiles do not have levels of PCBs exceeding 50 ppm, but given that they contain soil and debris from areas that had high levels of PCBs, dilution may have occurred in the creation of one or more of the piles. Accordingly, these stockpiles will be addressed under a separate EPA action, which will authorize their disposal.

This Approval does not release Sam's or the property owner from any applicable requirements of federal, state or local law, including the requirements related to cleanup and disposal of PCB-contaminated wastes under the RIDEM regulations. Under this Approval, EPA reserves its right to revoke, suspend, and/or modify this Approval if it finds that the remedial activities to be conducted under this Approval pose an unreasonable risk of injury to public health or the environment.

Questions and correspondence regarding this Approval should be directed to:

Kimberly N. Tisa, PCB Coordinator  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100  
Mail Code: OSRR07-2  
Boston, Massachusetts 02109-3912  
Telephone: (617) 918-1527  
Facsimile: (617) 918-0527

EPA shall not consider this project complete until it has received all submittals required under this Approval. Please be aware that upon EPA receipt and review of the submittals, EPA may request any additional information necessary to establish that the work has been completed in accordance with 40 CFR Part 761, the Notification, and this Approval.

Sincerely,



James T. Owens, III  
Director, Office of Site Remediation & Restoration

cc: Bruce Wickline, Esq. Wal-Mart Stores  
David Lis, ENVIRON  
Shannon Daigle, Woodard & Curran  
Jeff Crawford, RIDEM  
File

Attachment 1: PCB Approval Conditions

## ATTACHMENT 1

**PCB CLEANUP AND DISPOSAL APPROVAL CONDITIONS  
SAM'S CLUB STORE #6681-02  
25 PACE BOULEVARD  
WARWICK, RHODE ISLAND**

### GENERAL CONDITIONS

1. This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to *PCB remediation waste* located at the Site as identified in the Notification<sup>1</sup>. Specifically, the Site is shown on Figure 8A of the revised May 17, 2013 *Notification and Request for Approval Modified Self-Implementing Onsite Cleanup and Disposal of PCB Remediation Waste Plan*.
  - a. In the event that Sam's PW, Inc. (Sam's) or Kalikow Yaphank Development Corporation ("Property Owner") identifies other PCB-contaminated wastes subject to cleanup and disposal under the PCB regulations, Sam's or the Property Owner shall be required to notify EPA and to clean up the PCB-contaminated wastes in accordance with 40 CFR Part 761.
  - b. Sam's or the Property Owner may submit a separate plan to address the PCB contamination or may modify the Notification to incorporate cleanup of the PCBs under this Approval in accordance with Condition 16.
2. Sam's shall conduct on-site activities in accordance with the conditions of this Approval and with the Notification.
3. In the event that the cleanup plan described in the Notification differs from the conditions specified in this Approval, the conditions of this Approval shall govern.
4. The terms and abbreviations used herein shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.

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<sup>1</sup> Information was submitted on behalf of Sam's by ENVIRON and was provided to satisfy the notification requirement under 40 CFR § 761.61(a)(3) and (c). Information was provided dated October 2012 (Summary of Environmental Investigation Activities); September 11, 2012 (Hazardous Material Release Notification Form); December 19, 2012 (ENVIRON Technical Memorandum. Sampling Plan for Supplemental PCB Characterization); April 3, 2013 (ENVIRON Technical Memorandum Sampling Plan for Supplemental PCB Characterization adjacent to Soil Boring E-1); March 19, 2013 (Notification and Request for Approval Modified Self-Implementing Onsite Cleanup and Disposal of PCB Remediation Waste Plan ((SIP); May 17, 2013 (revised SIP); and, June 3, 2013 (e-mail clarification on Sam's representative and boulder sampling plan). These submittals will be referred to as the "Notification."



5. Sam's must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval. In the event of a new spill during response actions, Sam's shall contact EPA within 24 hours for direction on sampling and cleanup requirements.
6. Sam's is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities conducted under this Approval. If at any time Sam's or the Property Owner has or receives information indicating that Sam's or any other person has failed, or may have failed, to comply with any provision of this Approval, Sam's or the Property Owner must report the information to EPA in writing within 24 hours of having or receiving the information.
7. This Approval does not constitute a determination by EPA that the transporters or disposal facilities selected by Sam's are authorized to conduct the activities set forth in the Notification. Sam's is responsible for ensuring that its selected transporters and disposal facilities are authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.
8. This Approval does not: 1) waive or compromise EPA's enforcement and regulatory authority; 2) release Sam's or the Property Owner from compliance with any applicable requirements of federal, state or local law; or 3) release Sam's or the Property Owner from liability for, or otherwise resolve any violations of federal, state or local law.
9. Failure to comply with the Approval conditions specified herein shall constitute a violation of the requirement in § 761.50(a) to store or dispose of PCB waste in accordance with 40 CFR Part 761 Subpart D.

#### **NOTIFICATION AND CERTIFICATION CONDITIONS**

10. This Approval may be revoked if the EPA does not receive written notification from Sam's of its acceptance of the conditions of this Approval within 10 business days of receipt.
11. Prior to initiating onsite work under this Approval, Sam's shall submit the following information:
  - a. a certification signed by its selected contractor, stating that the contractor(s) has read and understands the Notification, and agrees to abide by the conditions specified in this Approval;

- b. a contractor work plan prepared and submitted by the selected contractor(s), detailing the procedures that will be employed for cleanup of PCB-contaminated wastes and for monitoring during cleanup activities. This work plan should also include information on waste storage, handling, and disposal for each waste stream type and for equipment decontamination; and,
- c. a certification signed by the selected analytical laboratory, stating that the laboratory has read and understands the analytical and quality assurance requirements specified in the Notification and in this Approval.

### **CLEANUP AND DISPOSAL CONDITIONS**

- 12. The cleanup level for *PCB remediation waste* (e.g., soils) at the Site shall be less than or equal to ( $\leq$ ) 1 part per million (ppm) within the receiving area building footprint and  $\leq$  10 ppm outside the receiving area building footprint.
  - a. Bulk *PCB remediation waste* (i.e., soil) samples shall be collected on a bulk basis (i.e., mg/Kg) and reported on a dry-weight basis. Samples shall be collected in accordance with Subpart O as described in the Notification.
  - b. Chemical extraction for PCBs shall be conducted using Methods 3500B/3540C of SW-846 for solid matrices and Method 3500B/3510C of SW-846 for aqueous matrices; and, chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another extraction or analytical method(s) is validated according to Subpart Q.
- 13. Sam's shall submit a PCB sampling plan to EPA for review and approval for characterization of boulders. The nature of the samples (i.e., surface wipe versus bulk samples) shall be dependent upon visual observations of the boulders.
  - a. Non-visibly impacted (i.e., non-stained) boulders located within the  $\leq$  10 ppm PCB-contaminated areas may be disposed of within the  $\leq$  10 ppm PCB-contaminated area beneath the engineered cap without further characterization sampling.
  - b. Boulders generated during excavation of the greater than ( $>$ ) 10 ppm PCB-contaminated soil areas and the  $\geq$  50 ppm PCB-contaminated soil areas and for which on-site disposal beneath the engineered cap is proposed, shall be segregated for characterization.
  - c. During excavation and segregation, visibly impacted boulders (e.g., stained) shall be segregated from non-visibly impacted boulders for characterization, regardless of the boulder size. Stained boulders may not be disposed on-site without sampling regardless of the area from which the boulders were excavated.



- d. Chemical extraction for PCBs shall be conducted using Methods 3500B/3540C of SW-846; and, chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another extraction or analytical method(s) is validated according to Subpart Q.
  - e. Alternatively in lieu of sampling, visibly impacted boulders may be disposed of as a  $\geq 50$  ppm PCB waste in accordance with § 761.61(a)(5)(i)(B)(2)(iii).
14. All PCB waste (regardless of concentration) generated as a result of the activities described in the Notification, excluding any decontaminated materials, shall be marked in accordance with § 761.40; stored in a manner prescribed in § 761.65; and, disposed of in accordance with 40 CFR § 761.61(a)(5), unless otherwise specified below:
- a. Decontamination wastes and residues shall be disposed of in accordance with 40 CFR § 761.79(g).
  - b. Moveable equipment, tools, and sampling equipment shall be decontaminated in accordance with either 40 CFR § 761.79(b)(3)(i)(A), § 761.79(b)(3)(ii)(A), or § 761.79(c)(2).
  - c. PCB-contaminated water generated during decontamination of during dewatering shall be decontaminated in accordance with 40 CFR § 761.79(b)(1) or disposed of under § 761.60.

#### **INSPECTION, MODIFICATION AND REVOCATION CONDITIONS**

- 15. Sam's and the Property Owner shall allow any authorized representative of the Administrator of the EPA to inspect the Site, to inspect records, and to take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by Sam's or the Property Owner to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.
- 16. Any proposed modification(s) in the plan, specifications, or information in the Notification must be submitted to EPA no less than 14 calendar days prior to the proposed implementation of the change. Such proposed modifications will be subject to the procedures of 40 CFR § 761.61(a)(3)(ii).
- 17. Any departure from the conditions of this Approval without prior, written authorization from the EPA may result in the revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.

18. Any misrepresentation or omission of any material fact in the Notification or in any records or reports may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
19. Approval for these activities may be revoked, modified or otherwise altered: if EPA finds a violation of the conditions of this Approval or of 40 CFR Part 761, including EPA's PCB Spill Cleanup Policy, or other applicable rules and regulations; or, if EPA finds that these activities present an unreasonable risk to public health or the environment.

### **RECORDKEEPING AND REPORTING CONDITIONS**

20. Sam's shall prepare and maintain all records and documents required by 40 CFR Part 761, including but not limited to the records required under Subparts J and K and shall submit same to Property Owner. A written record of the cleanup and the analytical sampling shall be established and maintained by Sam's in one centralized location until such time as EPA authorizes, in writing, an alternative disposition for such records. All records shall be made available for inspection by authorized representatives of EPA.
21. Sam's shall submit a final report to EPA, in both hard copy and electronic version, within 60 days of completion of the activities authorized under this Approval and shall submit same to Property Owner. At a minimum, this final report shall include: a short narrative of the cleanup and disposal activities with photo-documentation; characterization and confirmation sampling analytical results (as applicable); copies of the accompanying analytical chains of custody; field and laboratory quality control/quality assurance checks; an estimate of the quantity of PCB waste disposed of and the size of the remediated area(s); copies of manifests and/or bills of lading; and copies of certificates of disposal or similar certifications issued by the disposer.
22. Within 60 days of completion of the cleanup activities described in the Notification and authorized by this Approval, and as required under § 761.61(a)(8)(i)(B), the Property Owner shall submit to EPA a signed certification that it has recorded the notation on the deed as required under § 761.61(a)(8)(i)(A). A copy of the notation on the deed must also be submitted.
23. Required submittals shall be mailed to:

Kimberly N. Tisa, PCB Coordinator  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100  
Mail Code: OSRR07-2  
Boston, Massachusetts 02109-3912



24. No record, report or communication required under this Approval shall qualify as a self-audit or voluntary disclosure under EPA audit, self disclosure or penalty policies.

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**END OF ATTACHMENT**